

**MILFORD PLANNING BOARD MINUTES
NOVEMBER 18, 2003**

Present: Walter Murray, Chairman
 Steve Sareault, Vice-Chairman
 Paul Amato
 Jim Dannis
 Tom Sloan
 Walker Fitch
 N. O'Connell, BOS Representative

Bill Parker, Director Planning/Community Development
Lincoln Daley, Staff Planner
Shirley Carl, Admn. Assistant

1. Public hearing on the Proposed Sign Ordinance
2. Minutes – September 16 and October 21, 2003
3. Frank Coffey – Elm St. Map 18, Lots 2 & 3 – Rescission of previously approved site plan
4. TOM/Conservation Commission – Armory Rd. – Map 42, Lot 77 & Railroad – Transfer of fee interest of 3,946 SF to Map 47, Lot 15 to create a contiguous lot to Armory Rd. and incorporate an existing driveway
5. Steve Talarico/TOM – Armory Rd. – Map 47, Lot 15 – Waiver of site plan review to provide off-street parking for four cars for hikes on Rail Trail
6. Hugh & Aubrey Barrett – Elm St. – Map 7, Lot 10 & 10-2 – Public hearing on a site plan for an 18-hole golf course – new application
7. Hitchiner Mfg. Co./Barrett – Elm St. – Map 7, Lot 6 – Site plan for a golf driving range – tabled from 10/21/03
8. US Cellular/TOM – One Union Square – Map 26, Lot 178 – Site plan for a telecommunication facility – tabled from 10/21/03
9. Trombly/Holcombe – North River Road – Map 5, Lot 3 – Continued discussion for an open space subdivision
10. Other -
 Mile Away Restaurant – Federal Hill – Map 48, Lot 42 - Waiver of site plan review for a 160 SF addition

Motion to approve: _____

Seconded by: _____

Signed: _____

Chairman Murray opened the hearing at 6:30 PM

6:30 PM

1. Public hearing on Proposed Sign Ordinance

Chairman Murray prefaced the hearing by stating this meeting, which is the first public hearing held on the proposed sign ordinance and it will be restricted to one hour. He asked members of the audience to please stand up, proceed to the microphone and state their name, address or a corporation if they represent one. If the person speaking has a written presentation, they were asked to give it to the Board. There will be a subsequent hearing on this matter. The Board is looking to receive opinions, ideas, etc. on this proposal so it can be further worked on and hopefully come up with a workable ordinance. He turned the hearing over to N. O'Connell, Chairman of Sign Committee.

N. O'Connell gave a brief talk as to how this situation arose. This committee was formed in 2002 and was mandated by the Master Plan. The #1 priority was to revisit the Sign Ordinance. We visited other sign ordinances, communities, etc.; many manuals were reviewed. She referenced the purpose and intent of the proposal, which is to preserve the community character, and was #1 in the Master Plan. Their first order of business was to review the existing ordinance without making any changes except to the language. She pointed out one item that was in the Appendix, Page 2 it refers to Yard Sales require a permit, that was an error and went uncorrected. Yard sales do not require a permit.

The first person to speak was Paul Tripp of Classic Signs and representative of the NH Sign Association. Mike Leary, president of the association is also in attendance. Mr. Tripp asked if the Board would share the source of information and if any legal source of consideration from the constitution as to the business community that was reviewed to determine the proposed draft. N. O'Connell responded that it went to Bill Drescher, Town Counsel for review. Some things were either rewritten or stricken. She brought a number of texts of sources, not set up but they can be set up for the sources that were used.

Mr. Tripp was present as an association member to give the Board more information. He asked if anyone looked at the source from the SBA with the response in the negative. He provided the Board with the information he was referencing. They were here to provide additional information to the committee. He also stated after reviewing the proposal that there were some items that were unconstitutional. He also asked if the Planning Board would be in favor to table this matter for this year and not put the draft on the Warrant in 2004 but to develop a new committee to incorporate a member of the NH Sign Association and people in Town and someone from the professional association in order to make sure the proposal would be constitutionally correct.

Michael Leary, President of NH Sign Association stated they had a meeting and looked at many of the issues and worked with the Signage Foundation on some of the points within the document. There are a number of legal issues that need to be addressed.

There are a lot of other issues that could be challenged which would make the entire sign code useless. Some of the important issues are legal as well as safety.

Richard Westergren, 18 Helene Drive and a member of the Souhegan Valley Chamber of Commerce and a member of the NH Sign Association. His original intent was to go through the proposal line by line but he doesn't feel it is in order at this time. He is present to encourage the Board to send this back to committee to reanalyze and hopefully have some members on this committee that are part of the business committee i.e. members of the Chamber of Commerce, residents and more interaction as to what the needs are of the business community. He had received a letter from the owners of Lorden Plaza.

George Infanti, business owner, in Milford, asked the intentions of the Board after this presentation. He was told that the next step was to take it to a public hearing, after receipt of tonight's comments, review it and go forward. He voiced a concern regarding the amount of time (two weeks) to get a building permit because the Building Dept. is totally overworked. If the TOM were to go after all the signs, the TOM would be in need of two full-time inspectors to enforce. One of the issues is regarding the North River Road fields, the kids win a tournament, a banner is put up on the fences and they are totally illegal – either too big or too high. County Stores parking lot - maximum sign height is proposed to be 8'. Even with the size reduced from 100 SF to 32 SF the bottom of the sign could be anywhere from 2 – 4' above the ground. Will the sign be able to be seen in the wintertime? The signs block the exit and another consideration is the signage has to be off two hours after the business closes. His business closes at 4 pm; Saturday afternoon that means the sign lighting would have to be off at 6 PM. He stated that they have lighted signs not only to advertise their businesses but also for safety. He was concerned that all design elements of signage have to be reviewed as part of a subdivision process. He brought up an issue regarding signage on Rte. 13, S and the cost of legal fees. He feels this will be a very expensive ordinance. Signage on the Oval is subject to a more stringent design review. He believes that TOM has to look at a more realistic ordinance and he feels this is very restrictive.

Don Reed a 12-year employee of Barlow Signs and been part of the sign industry for 30 years. The diversity of signs in a community is one of the vibrant parts of the commercial area in Town. The kind of control that is included in this proposal gives him some concern. By limiting signs in the ways this proposed ordinance indicates would be detrimental to business and the overall community in terms of having a nice commercial area. He then referred to the tax base. When the tools are taken away from the businesses the whole retail area begins to deteriorate and businesses that may think about locating in Town may go somewhere else. He advised that when a sign ordinance is looked at, the kind of changes that are proposed, it is important to understand the value of that sign for any given business. He also would like to join his friends of the NH Sign Association and offer his help.

G. Infanti then spoke to the political sign issue. He asked if the TOM has a requirement of how many days in advance of a political sign being erected? He feels there is no bigger eyesore than political signs. N. O'Connell responded that it would be looked into. At this time, we cannot remove the signs without notifying the person and one of our employees has asked that we change that so if it is beyond the 72 hours and driving

down the road and happen to see a sign that should have been taken down over the weekend, they just throw it in the back of the truck. That would help with some of the clutter that hangs around.

Terry Wilkins, 85 Old Brookline Rd. applauded the Board for their effort and to accept the offers of help from the community, industry, etc. He wanted clarification that this has been posted and is law and this was confirmed.

Nancy Amato, Chairman of the BOS and owns Alene Candle. She made it known that she is speaking as a resident. She spoke to Daniel Webster Highway in Nashua and it isn't a place she wants to be. She feels that a business that provides excellent product and service and exceeds the customer's expectations, customers will find them. She provided the Board with a photo of Classic Cat on Nashua St. It isn't a huge sign and allows for a great of creativity. "If a person wants to capture attention – whisper".

Donald Caisse, 146 Ridgefield Drive spoke to enumerated signs for business/residence. Kevin Lynch informed Mr. Caisse that there isn't any ordinance that requires this. He continued that 911 are responsible for numbering. It is a C/O requirement. He requested that Mr. Caisse write a letter stating his concerns.

C. Worcester, business owner and resident, stated that if we are to restudy this matter and take it back to committee, we need to have a balance and broad base participation from the business community. He hasn't heard much from the business community except for one. That voice needs to come forth and tell them that they don't like what has been done. We need the business community, the Chamber of Commerce, etc. that wants to represent itself to the committee, step forward and volunteer. N. O'Connell requested that everyone in attendance sign an attendance sheet. She invited all to come to a meeting to discuss this matter or send her an E-Mail. She thanked everyone in attendance.

Philip Aubrey, business owner on Mont Vernon St. stated that as a businessperson with 23 employees and our sign works. Elm St. is a business district.

Paul Tripp asked for a consensus from the Board that this will not be put on the Town Warrant in April 2004 but rather this go back to committee for further discussion. N. O'Connell was in complete agreement.

He asked that the situation in South Nashua not be blamed on signage; this is because Nashua allows businesses to be close to each other. He also encouraged the committee to take Kevin Lynch's advice. We are here not only representing our business but also our clients. We build them all over New England.

K. Bauer, 247 North River Rd. was informed that this sign ordinance is in effect at this time. She brought up interior window signs and questioned if this was new, as we never had it before. N. O'Connell responded that the ordinance refers to signs that are pasted to the windows. She feels that the staff in Building/Planning will not be able to enforce the expanded type of signage. She doesn't think it is a good idea to put new regulations in place unless there is enforcement in place to back them up. She then

spoke to small shopping centers that have more than one business. The height of a sign in the old ordinance is 15' and the new one it is 8'. She questions if a shopping center i.e. Edgewood Plaza, whether an 8' sign which has to have several businesses on it will be sufficient in that it might actually block the view of traffic. She then speaks as a ZBA member that this quite restrictive as compared to our old code and questions whether there will be a lot of people that will require variances cause they want to be competitive with the huge amount of grand fathered signs in Town. She is very concerned with the old versus the new ordinance.

Paul Tripp made a motion to withdraw the entire new sign ordinance. Chairman Murray didn't allow this.

The next meeting was scheduled for Monday, December 1, 2003 at 7:00 p.m.

2. Minutes - September 16, 2003 – Motion by S. Sareault, seconded by P. Amato, all in favor; with J. Dannis and T. Sloan abstaining due to fact they didn't receive them.

7:45 PM

3. Frank Coffey - Elm St. – Map 18, Lots 2 & 3 – Rescission of previously approved site plan – continued from October 21, 2003

He thanked the Board for meeting with him. He asked the Board to consider two changes to the condition of his site plan approved on May 20, 2003. In a letter dated May 22, 2003, there were six conditions that he was asked to meet before the signing of the site plan. He wanted to go through the requested items and discuss two of them. He has complied with 1, 2, 4 and 5.

- 1) He has agreed to place all shrubs that are planted along the Elm St. right-of-way to be planted on his site and out of the Town right-of-way.
- 2) The shrubs will be a minimum of five gallons in size at time of planting.
- 4) Number of vehicles was changed and actually removed.
- 5) The maximum number of vehicles allowed on site shall be 150, to include transport trucks, customer and employee parking and display.

He then spoke to Item # 3 – He was asked to demolish the house (garage). The Board gave him one year 6/1/04). He felt he could still meet that deadline and asked the Board to give him until 6/1/04 to complete all the site work and landscaping due to the fact of winter coming on. He wasn't present at one of the meetings when E. Sandford proposed this and tentatively agreed to it but he hadn't thought about the fact that the building would be required to be demolished before he could meet and finish all the landscaping. He would like to do it all at once rather than piecemeal.

Item #6 – Security – posting of a \$5,000 bond to be placed in escrow to insure that the site improvements, demolition, etc. be accomplished. He asked the Board to make a change in #3; and in terms of #6 he asked the Board to consider not requiring that a bond be posted. If he failed to meet the completion conditions then require him to post the \$5,000 escrow account until the final work is done. He is slowly but surely working his way through the growing pains of a small business. To require him to post the \$5,000 deposit would pose a hardship on him right now.

Chairman Murray stated there has been a history regarding this property that started back in June 1991. Approvals were given but the conditions haven't been complied with and the Board was never informed of his financial situation and as a result the situation was ignored. S. Sareault stated that one of his objections was site improvements and demolition of the house, etc. The landscaping makes some sense. It wouldn't be very equitable to plant trees within 10-15' of a house that will be demolished shortly. Maybe the condition could be that all plantings be within less 50' of the house (garage) be done. The most recent approval was on May 20, 2003. The plan was approved and it is 11/18/03 and the issue of planting doesn't appear to be the Boards' problem. It isn't too late to define the planting areas and get the cars back out of the right-of-way – that has yet to be done since May 20th. The bond doesn't have to be posted if everything that is required on the site plan is done. The garage can be taken down tomorrow and you don't have to post a bond to do it. In light of the approaching holiday season, if he would agree to move the cars back and delineate, according to the plan that was approved, the planting area and not put any cars in the planting area, he would at least be acknowledging that the Board approved the plan and it is your plan we approved. Nothing has been done on that plan. He asked Mr. Coffey to delineate the planting areas and delineate it to show there are no cars to be parked there. He could put something there to show where the planting areas will be. Presently, the cars are parked on TOM property.

Frank Coffey stated that L. Daley had visited the site yesterday but he couldn't confirm whether the cars were moved back. Mr. Coffey stated that he had put stakes down but someone stole them. He measured the area and dug the railroad ties out, dug a trench where the property line is supposed to be and moved all the cars back. L. Daley suggested that this be done, as it would be in his best interest.

P. Amato commented that he had paid to have the stakes put in, they were painted orange for a period of time and you need to have a buffer area between the Town boundary and where the cars are parked. It is clearly shown on the plan and we gave you some latitude in that area isn't the way it is done. The requirement for posting was May 20th and now it is November. Mr. Coffey apologized and didn't have any valid excuse for not completing everything, it is a money issue and there were other priorities as part of business. P. Amato asked if it was true that he has extended his operation to the east? Mr. Coffey responded in the affirmative and he was asked if that took some money that could have been used to complete the pending issue. It is a money priority issue. P. Amato asserted that if we shut you down because you don't meet the site plan conditions then it doesn't matter. Mr. Coffey answered that it would be a hardship on him. P. Amato continued by telling Mr. Coffey that he has to show the Board some good faith effort, that you are doing what you said you would do, otherwise we have no choice. It just doesn't show any good faith effort.

N. O'Connell asked if we have an approved plan prior to the one that he hasn't complied with? The response was in the affirmative. She continued by stating that the previous one should be complied with before we even get to this one. L. Daley stated that there is a 1991 plan. B. Parker advised that he doesn't think we should even go near the 1991 plan. N. O'Connell to Mr. Coffey expressed that she is really trying to work

with him because the condition of Elm St. upsets her and to get improvements on his property would be a world of good. Things are promised but are never done.

J. Dannis stated that the staff recommendations advise the Board to take action tonight that would put Mr. Coffey out of business by rescinding or denying the site plan thereby setting the stage for a Cease and Desist. He drove up/down Elm St. and counted (from the Police Station heading towards Town) and saw many automobile dealerships. He didn't think Mr. Coffey's site looked substantially worse than other sites he drove by. He then asked staff to give him two site plans that relate to automotive or equipment businesses in order to determine if those businesses were in compliance. In his judgment, they were not. His conclusion is that when we are asked or recommended by staff to take a judicial action that could, in effect, put a small business out of business, we have to do so only after we have comforted ourselves that we know that similarly situated businesses, i.e., other car dealerships on Elm St. or other automotive businesses in Town are, in fact, in compliance. He would not be in favor of voting for any action as potentially damaging to a business as recommended by staff until we first make the very basic determination as to whether we have any valid enforcement activities, whatsoever, regarding car dealerships and we know if they are in compliance. He wouldn't want to target one person versus an entire group. He would not vote in favor of staff recommendations until such time until at least the seven car dealerships on Elm St. have been looked at to see if they are in compliance with their site plans.

P. Amato commented that the other dealerships are not before this Board tonight. J. Dannis replied by stating it is fairness and equal protection. T. Sloan thinks that probably some of the businesses referenced by J. Dannis were at one time in compliance with their site plans. Mr. Coffey has failed to do that on a number of occasions. W. Fitch, being a small business owner, thinks it is difficult sometimes to come up with a large amount of money, of which this would be in a small business. There are other opportunities that could be worked out and also regarding P. Amato's comments regarding Mr. Coffey buying another business and different priorities regarding how money is spent, sometimes opportunities arise that won't be there later on. He felt that we would like to work with Mr. Coffey would work with the Board. T. Sloan then asked Mr. Coffey to explain how he plans to pay his next years tax bill and do the required improvements if he can't pay his December tax bill? Mr. Coffey responded that he is going to continue what he has been doing, which is to dedicate his life to his business and continue to serve his customers in a fair and honest manner. To Walter Murray he did state that at times he did appear uncooperative to the Board, sometimes adversarial but he is here tonight to say that type of relationship should end and he said he would extend whatever cooperation he can to the Board to make this happen. Mr. Sandford has left it with him to comply with the plans. N. O'Connell asked Mr. Coffey what he plans to do to show us good faith that these things will happen and she would like a timeline. Mr. Coffey suggested that based on the conversations tonight, if the Board would like to reschedule him to come back for the December 16th meeting, he could complete what was suggested by P. Amato i.e. delineate the landscaping areas, move the cars back away from the property line and see how it works. He will start living with this plan; this is his plan of the future. He doesn't have any way near the maximum capacity of cars on the property so he would think he would complete that. He moved those few cars out of the right-of-way and let's see what he

can do in the next 30 days with a proposal from Ela Construction and return in 30 days and tell the Board that he has done that and we can move forward. He isn't asking the Board to approve the plan tonight, if you would rather wait until the next meeting and see him make some good faith effort and progress toward the completion of this project. P. Amato brought up the fact that the plan was approved in May but he (Frank) never signed it nor has the Board signed it. T. Sloan stated that he was afforded the opportunity to be approved by the Board.

N. O'Connell made a motion to table this item until December 16, 2003, in order to give Mr. Coffey the opportunity to make as many improvements on this plan including delineating the landscaped areas before the first snowfall. P. Amato suggested that he not just move the cars back but also delineate the landscaped areas and that it be done before snow falls. Mr. Coffey was advised to stop by the office, sign the plan and delineate the areas. Motion seconded by P. Amato and unanimously voted.

The item was tabled to December 16, 2003.

8:45 PM

4. TOM/Conservation Commission – Armory Rd. Map 42, Lot 77 & Railroad – Public hearing to transfer

fee interest of 3,946 SF to Map 47, Lot 15 to create a contiguous lot to Armory Rd. and incorporate an existing driveway – new application

A motion was made by N. O'Connell, seconded by S. Sareault and unanimously voted that the proposed lot line adjustment presents no potential regional impact.

The owner/abutter list was read into the record: Present Nancy Amato, Chairman of BOS; Diane Fitzpatrick, Chairman – CC; and abutters Brian & Lorissa Tullgren and Diane Fitzpatrick as an abutting homeowner.

It was noted by Ms. Carl that the notifications for this application and the next application were mailed out together since the abutters were the same.

A motion was made by S. Sareault, seconded by P. Amato and unanimously voted to accept the application.

Presentation was made by Diane Fitzpatrick:

1. The proposal is a lot line adjustment with Map 47, Lot 15. This lot is in two distinct pieces, as the main part of the lot doesn't abut Armory Rd. The parcel they have on Armory Rd. doesn't access Armory Rd. There wasn't any reason in the past to worry about it, but it is better for the lot to be contiguous. The rail trail goes right through the middle of the property.

2. When the property gets transferred, the Town will retain the right to have this trail and not have interference. T. Sloan then asked if the Town would maintain the right for the parking? D. Fitzpatrick responded that there isn't any parking right now. Clarification – Parcel "H" is presently Town owned land. J. Dannis asked after the transfer is completed if the owner of 47/15 wished to use that space to put in a road to access that lot, can it be done? Presently, he has a driveway to access his house but the Board doesn't know the dimensions of the driveway or the terms of the right-of-way. In transferring this land he asked if it allows the potential for developing the lot further than what it is at this time. She explained that most of the property is under a CC easement and nothing further can happen. Brian Tullgren, abutter spoke to a previous time i.e. August 2001 the issue that that was the controlling part to the piece of property and he believes there is a section that is developed on this property. He thought that it was said by the CC that they own this right-of-way and now they want to give it away. D. Fitzpatrick stated that there are restrictions with this land transfer. Lorissa Tullgren asked the reason for this transfer and D. Fitzpatrick explained that they are getting something for it and referred to the next item on the Agenda where they will be getting a parking area for the trail. Discussion ensued regarding the different parcels shown on the plan. She explained that the CC had met with the BOS regarding an easement to be given to 47/15 because there isn't any legal piece of paper saying he has a right to cross Parcels "H" or "C". The curve on Armory Rd. was brought up and it was explained that the curve was put in when the railroad went in because in that location, the railroad went over the road. There isn't any plan to straighten out the road. S. Sareault felt that the question asked by J. Dannis regarding 47/15 is a good point. Chairman Murray also commented that 52' is being given to the lot, which means they can go in by a right-of-way and bring a road in. An easement was put on the property and it didn't have anything to do with the railroad bed. It includes the entire triangular piece on Armory Road, a lot of the front area and a section to the West and land at the back. It doesn't allow timbering, structures. Chairman Murray asked if the 19 acres that are left could be developed and D. Fitzpatrick stated that it is one lot with three dwelling units on it. J. Dannis felt that this transfer of land is not the purview of the Planning Board but rather the BOS and CC. He asked if the Town is receiving fair value in exchange? Giving access for development for a piece of back land is a very valuable thing and if the Town is deciding to dispose of this, someone should be sure the TOM is getting fair value. D. Fitzpatrick explained that what is happening doesn't change anything because a person cannot get to the part that is out of the easement without going through the easement and they aren't allowed to go through the easement for anything more.

T. Sloan suggested a site walk.

The Tullgren's voiced concerns regarding traffic, people walking on the trail, access and congestion, etc. She stated that the curve is there for a reason i.e. to slow down traffic.

A motion was made by S. Sareault, seconded by J. Dannis, for purpose of a vote; to table it to December 16, 2003 - vote as follows: Yes – W. Fitch,

Chairman Murray, N. O'Connell and S. Sareault; No – P. Amato, J. Dannis and T. Sloan

5. Steve Talarico/Conservation Commission - Armory Rd. – Map 47, Lot 15 – Waiver of site plan review to provide off-street parking for four cars for hikers on the Rail Trail. -

D. Fitzpatrick explained that the trail is three miles long and this is roughly halfway. There are a lot of people that don't want to walk the three miles and back again; they see where the trail crosses the road, and find a spot to park nearby. It is indicated on the plan that the edge of pavement is 30' from the front end of the foundation and there is room to pull off the road. We want to make it safer for the people who are parking (pointed out on the plan) and want to walk the second half of the trail. The foundation is 37x30' and is almost 30' off the road; the back of the foundation is 60' off the road. She went out to the site with B. Ruoff and he felt it was a good place to park and there is room for four cars to enter the road head on. Their goal is to clear out the foundation and add some gravel to make a safer situation.

S. Sareault wants to walk the site.

A motion was made by P. Amato, seconded by S. Sareault and unanimously voted to conduct a site walk on November 29, 2003 at 9:00 a.m. No action will be taken until December 16, 2003.

6. Hugh & Aubrey Barrett - Elm St. – Map 7, Lot 6 – Site plan for a golf driving range – tabled from 10/21/03

Before the meeting commenced Chairman Murray read a letter into the record from Chris Ordway of Hayward's Ice Cream, under date of November 9, 2003, regarding their approval of a combined curb cut for both properties. Part of the letter was agreement that all expenses are to be borne by the Barrett's.

J. Phippard gave the presentation and overview of the proposed site plan.

1. As in all previous meetings, he went over the location of the property, etc. The proposal is to include a temporary clubhouse facility until the golf course is operational and then return with a site plan for the completed clubhouse. They met with Hayward regarding a shared curb cut, which will be slightly east of the present location and will be better in line with Westchester Drive.
2. Employees arrive at the location between 5 am and 6:30 am. Before the ice cream stand is open. The rest of the day, this parking will be available to customers of the ice cream stand.
3. The maintenance building will be a permanent structure made of steel, with overhead doors facing the golf course. To the rear, it will be well screened. The maintenance building will house lawnmowers, etc, fertilizer and chemicals will be stored on the property in a locked facility. The public access to the property will exist on the westerly portion adjacent to Medlyn Motors. The curb cut location has excellent line of sight in both locations. The clubhouse area is elevated and is out of the flood plain. Water & sewer has been extended along the entrance of the driveway.

4. A colored plan was shown to the Board indicating where everything is and the fact that it does cross Tucker Brook. Proposing to construct other footbridges in several locations. There are seven bridge cabinets, four on Tucker Bridge and three on existing wetlands. They will be filing for a minimum expedited application.
5. Drainage design calls for all runoff to be contained within the property. The intent is to direct run off to the grassy area adjacent to the property. There will be grass-lined swales for collection areas. It takes a great deal of runoff along a turf-grassed area and the turf grass is much healthier. We are directing the runoff away from the wetlands, brook and the Souhegan River.

S. Sareault had a main concern with access. Ponds were brought into the discussion and they plan to relocate the pump house to the southern end of a pond. Of the 123 acres they are only irrigating 35 acres. N. O'Connell asked that they continue to work with the EPA regarding testing to make sure that any irrigation isn't transferring with the draw of the Savage Well. J. Dannis has the concerns as were in the memo from Diane Fitzpatrick's E-mail of 11/17/03.

Pierce Rigrod made a long presentation of which D. Fitzpatrick will submit paperwork. After this discussion, J. Dannis asked if the CC has the ability to evaluate the issues? Chairman Murray asked if the State regulates the pesticides. Their application wants to limit this to the greatest degree possible. Their BMP plan could be more detailed. Keene is testing their wells because of the drainage pattern that comes from the golf course. It was difficult to read the post and pre-grading, topo lines and if we could confine the buffers to 25-50' out, both along the Souhegan River, which is 50' buffer and we need 50' along the Souhegan River.

Pierce continued by asking if the EPA formally responsible to this Board with regard to their findings of use of the golf course's use of water. B. Parker We would work with the EPA and that will come from our department. J. Phippard then stated that they are in the process of negotiating with Hitchiner and we have agreed we will share

J. Dannis requested to hear the concerns of the CC. P. Amato referred to a memo to L. Daley from D. Fitzpatrick under date of 11/17/03 and was informed of the six points that the CC had concerns. D. Fitzpatrick did explain that they will be back regarding the dredge and fill to cross the brooks. Discussion ensued as to the first recommendation regarding the issue of having the revised site plan by an independent engineering firm. J. Phippard stated that if the Board would be more comfortable, he could come back for a compliance approval. J. Phippard stated that they generally ask for conditional approval before we receive all the necessary State and Federal approvals and if there are any revisions required we ask for local opinions, etc. If one more public hearing is required we would detail exactly what they did to satisfy all the permits, then ask for final approval from the Town. P. Amato stated that he would hope that the State agencies would have more expertise than the people sitting at this table. He isn't sure what advantage there is for either us, applicant or the Town for the applicant to hire another outside consultant to do this again.

D. Fitzpatrick explained that we have a rather unique situation and it was recommended by EPA that a hydrologist would understand this type of situation to give us some idea whether irrigating or digging the ponds down 20' would affect the remediation that is active upstream right now and whether they would be pulling the contamination up and spreading it on the ground. It is conceivable this might speed up the clean up or cause some problems. It would be wise for the Town to be aware of it. EPA won't answer that question. Discussion went back and forth as to actually what agency has jurisdiction over this piece of property and what they can do. D. Fitzpatrick stated that EPA doesn't have jurisdiction on this piece of property, only on their clean up. B. Parker felt that the best thing to do is get plans to the State and let them do their thing. J. Phippard stated that the plans were submitted to Dick Goelher of the EPA six months ago. The plans were also provided to Hitchiner, their engineers, etc. He also stated that they are in the process of negotiating and we have agreed to do our irrigation and if it interferes in any way with the clean up effort, they will stop. We feel this is the best and safest option. P. Rigrod recommended to at least look at the option of a third party review. J. Phippard disagreed with Pierce's recommendation and gave his reasons of which have been given many times previous. He stated that in 10 years, people would still be shooting golf balls. The answer to all the problems is monitoring. It has been expressed to the CC, this Board that if you want to get a Town easement to come on the property, install monitoring wells, do groundwater testing, soil testing, we want to be protected. We will give our permission to do the monitoring. S. Sareault felt that everything that has been suggested makes sense to him. B. Parker stated that the Board doesn't have all the staff comments back but felt the next step is to get easement language, CC comments, etc. He recommended that the Board table this and instruct the Barretts and Jim to start with their state permit process, wetlands permit and site specific. N. O'Connell brought up the issue of Indian Burial grounds and wondered if that issue had been looked into, which could be at the back of Agway. J. Dannis would vote to find someone that would give us the comfort that the drainage plan and the complexities presented by this site work and wouldn't have any adverse effect. He feels it might be a good idea to have a review done by an engineering firm. He doesn't know about the grading.

K. Bauer asked that the Board not only look at the effectiveness as to the chemicals but rather the effect of the contaminated groundwater which either abuts or under this land and what this means when ponds are constructed. She feels the best way to do this is, ahead of time, not after everything is constructed and no one would want to come down on a business that is operating in Town. Another question she had was that this applicant came before the ZBA many months ago for the same site, this is a new site plan and asked the difference between the two plans. J. Phippard responded that the plan is much more detailed. It is site plan information that was added to the drawing, but the layout is essentially the same. The biggest difference was the acquisition of land from NPC. This is a new site plan, she asked if the Board would ask the Code Administrator if this needs ZBA approval on the same issues again. The wetland approval that was issued is over one year. Also, get a ruling, due to the fact that this plan is sufficiently different than the one ruled on, so that the ZBA should in fact rule again. J. Phippard stated that he had spoken with Kevin Lynch regarding this matter and was informed that they didn't have to return to the ZBA.

A motion was made P. Amato, seconded by S. Sareault to table the plan to December 16, 2003, pending the following:

- 1. Proceed with State process and instruct Planning Board Staff to investigate regarding as to the type of engineering firm would be able to do some level of review; and**
- 2. Applicant to proceed with the development of the plan regarding easements and language for monitoring of soil and water.**

All in favor.

7. Hitchiner Mfg. Co.,/Barrett – Elm St. – Map 7, Lot 6 – site plan for a golf driving range - tabled from 10/21/03 – This will be tabled to December 16, 2003 along with the 18-hole golf co

8. US Cellular/Town of Milford - One Union Square – Map 20, Lot 178 – Site plan for a telecommunication facility – tabled from 10/21/03

A request had been received to table this item to December 16, 2003. **A motion was made by S. Sareault, seconded by P. Amato and unanimously voted to grant this request.**

9. Trombly/Holcombe - North River Road – Map 5, Lot 3 – Continued discussion for an open space subdivision.

Matt Peterson of KNA was the engineer on this proposal and made the presentation.

This project was before the Board approximately two to three months ago with some preliminary plans, wetlands, GIS, and the site had been walked. They hired Granite State Survey to do a complete boundary of the topo area. We are looking for direction based on some of the findings and some of the discussions at the first hearing.

1. He gave an overview of the location.
2. The original plan showed a loop road to the back portion and out.
3. After taking out the wetlands, the topo showed a stream that runs down and it was closer to the easterly property line. That isn't as close to the easterly line as we originally anticipated. In order to bring a loop back out was going to require a crossing of the brook in two places. There will be three wetland impacts. He suggested that the field be kept in its existing state i.e. hay it and use it for an agricultural use and not putting in a cul-de-sac. He didn't want to give the engineering to you until he asked a few questions of the Board.
4. The land to the north is also not developed. He knows that Homestead Circle has another extension and it was pointed out on the plan. He brought this proposal to the Board to get your input of bringing the road to the property line to tie it into this piece (again it was pointed out on the plan) would give the ability for a secondary point of access into Homestead Circle. The land to the north is presently owned by Ryder.

5. He spoke to the hashed in area on the plan is proposed (discussion ensued but he was talking about the plan, which could neither be heard or seen). It was nice to have a driveway that is graveled to some extent because there is still a road there today. It is our plan to meet with the CC regarding this matter. We thought of different ways to bring the road in and fence it off and make it look like an open picture. The cul-de-sac is 1150' in length, a little over the rule of 600'. In developing this parcel, there are options i.e. 600' and another 600' and we can go back to the drawing board. This piece is very special and has a lot of character and he felt the Board could look at this and get their direction in this matter. The number of lots would be 13 and P. Amato asked why he couldn't have the 13 lots? M. Peterson explained that with 13 homes we could only bring in 600' cul-de-sac. He would have to do a standard subdivision and go through the design review action. At this point, for him to spend money for engineering when he doesn't know where it is going to go is a waste. The open space requirement is for approximately 15½ to 16 acres and shown as 25 acres. There is not a of wetlands on this plan. There are trails that run through the back. P. Amato spoke to building a 600' road and then building another 600' road. Matt responded that it could be looked at. J. Dannis asked for a clarification if the applicant intends to preserve the pasture by asking for a waiver to place the same number of lots, or even one less, all in the upper section of the lot. M. Peterson responded that he is asking for a waiver on the cul-de-sac in back to leave the pasture as is. J. Dannis asked how they interpret our regulations that they continue to put a successive series of branches on it, so that someone could make the argument that Homestead Circle is a dead-end road? You are asking us to put in additional dead-end roads on a dead-end road of which there could be no limitation. He asked how they interpret our policy that says – a dead-end road is limited to 600'? **BILL CAN YOU REMEMBER Matt's response???** K. Bauer asked the Board as to their understanding on the argument of a cul-de-sac, then another one with the possibility of another one. She asked the Board their feelings on this, potentially creating a very large development. P. Amato doesn't like it but we have approved them in the past. S. Sareault isn't happy with them. J. Dannis felt that the Board has had the ability to change approvals in the past and creative people can make loops smaller and smaller until they disappear. He doesn't know the difference between a turn-around and a loop. It is a huge exception to build endless dead-ends.

N. O'Connell stated that she didn't like the configuration the first time. This seems like a complete manipulation of the open space. We have this little area and because it is connected, we can use the configuration to get more houses in one area. If they were two separate lots, which they should have been, the configuration would have been completely different. Again, the comments were not understandable.

K. Bauer, abutter stated that at the previous meeting, no detail was shown on the plan. She asked that Matt review the plan. Again, things were pointed out on the plan.

W. Fitch had spoken with the owner of the property and it was his wish was to keep the field open. He (W. Fitch) doesn't want to see a development in that field.

D. Fitzpatrick referred the Board and others to the tax map. She hasn't seen the plan that was before the Board tonight and there would be some changes that need to be made. As far as the road is concerned, the Board knows that situation. Protection of the aesthetics on North River Rd. is very important. That is the only road in Town that looks like that and the reason is because of the Trombly's and the farmland in place. It is a very unique road in Town and the Commission would like to see a lot of the farmland stay open. This is one way to accomplish that and whether they do a cul-de-sac, connect through and do a dead-end that is up to other people. N. O'Connell stated that she would like to see North River Rd. stay the way it is. D. Fitzpatrick commented that if the loop road or the dead-end road isn't feasible, the only other option is to go through the field with a road.

J. Dannis felt that D. Fitzpatrick made a very important point. He continued by stating that there is a great value in preserving the field in as near to its current state as possible. He would be inclined to look favorably on a waiver, in the event we can be assured that the field has been preserved as long as Town Counsel tells us we are working in a way that is legally permitted and responsible. He weighs the field higher than he weighs the incremental length of a dead-end road in this case.

K. Bauer asked to be shown in the pasture part, where the existing tree line is. This was done.

11. Other

Mile Away Restaurant - 52 Federal Hill Rd. - Map 48, Lot 42 – Waiver of site plan review to add a bathroom, mop sink, closet and exterior door to the back of the kitchen.

B. Parker explained that K. Murphy had come in to apply for a building permit to add a 160 SF addition. Kevin Lynch informed him that he would need a site plan or waiver of site plan review. Property is not tied into Town sewer. K. Bauer, ZBA asked if this was an expansion of a non-conforming use, response being Maybe.

After a small discussion, a motion was made S. Sareault, seconded by P. Amato and unanimously voted in the affirmative.

The meeting adjourned at 10:40 PM